*Covey* v. *Cannon, supra.* For an exhaustive treatment of this whole subject, see article by Professor Scott on the "Right to Follow Money Wrongfully Mingled with Other Money," in 27 HARV. L. REV. 125. See also SCOTT'S CASES ON TRUSTS, pp. 547-548, note.

WORKMEN'S COMPENSATION ACT—INJURY ARISING OUT OF AND IN COURSE OF EMPLOYMENT.—An employee loading wagons of straw at a stack sought rest in the shade of a box car during his leisure period, and fell asleep and was fatally injured by the moving of the car. *Held,* the injury did not arise out of or in the course of the employment, within the meaning of the Workmen's Compensation Act. *Weis Paper Mill Co.* v. *Industrial Commission et al.* (Ill., 1920), 127 N. E. 732.

The statutes of most of the states require that in order to recover under the Workmen's Compensation Act for an injury received, the injury must arise out of and in the course of employment. The difficulty is in the application of this rule. The court in the principal case held that in order to recover under the act the accident must have resulted from a risk reasonably incidental to the employment; and a risk is incidental to the employment when it belongs to or is connected with what the employee has to do in fulfilling his contract of service. In *Brown et al.* v. *Bristol Last Block Co.* (1920), — Vt. —, 108 Atl. 927, the court said: "An injury arises in the course of employment when it arises within the period of the employment, at a place where the employee may reasonably be, and while he is reasonably fulfilling the duties of his employment; and an injury arises out of the employment when it occurs in the course of it, and as a proximate result of it, or when the injury is a natural and necessary incident or consequence of the employment, a risk being incidental to the employment when it belongs to or is connected with what a workman has to do in filling his contract." In *Haggard's Case,* — Mass. —, 125 N. E. 565, where a city's employee during the noon hour sat to eat his lunch on the railroad track, leaning against a car, and was injured when the car was kicked, it was held that the injury was not in the course of his employment by the city to entitle him to compensation under the Compensation Act; the court saying that plaintiff was not in a place in which it was necessary for him to be in the course of his work, or in going to or coming from it. The act in which he was engaged when injured had no relation to his employment. He chose to go to a dangerous place where he had no business to go, incurring a danger of his own choosing and one altogether outside any reasonable exercise of his employment. In *Buvia* v. *Oscar Daniels Co.,* 203 Mich. 73, the court said: "An injury arises out of the employment within the meaning of the Workmen's Compensation Act when there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury." Where an employee voluntarily puts himself in a place of danger, where he is not required to go, the employer is in no way responsible for resulting injury. *Therriault* v. *England et al.,* 43 Mont. 376, 116 Pac. 581.

Upon the authority of these cases the decision in the principal case is undoubtedly correct, and the same conclusion would probably be reached in all jurisdictions. It is apparent, upon all the circumstances, that there was no causal connection between the conditions under which the work was required to be performed and the resulting injury. The agency which produced the injury was in no way connected with the work performed by the employee. It cannot be said that while the employee was lying down to rest himself he was doing any service required by his employment, and it is impossible to see wherein his work exposed him to the danger which resulted in his injury. The spot he chose was dangerous. The evidence showed that a switch engine came upon the tracks twice daily. It could not have been contemplated in the contract of employment that when the employe had an interval in which he could rest that he would lie down in such a place. The purpose of the Workmen's Compensation Act is not to insure the employee against all injuries, but to protect him against a risk of hazard taken to perform the master's task. *Pace* v. *Appoonoose County*, 184 Ia. 498, 168 N. W. 916. See 17 MICH. L. REV. 280; 16 MICH. L. REV. 179, 462.